

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEONARD M. VAN ROSSEN

Appeal No. 1998-3001
Application No. 08/318,645

HEARD: OCTOBER 11, 2000

Before COHEN, NASE, and JENNIFER D. BAHR, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1, 2, 4 through 9, all of the claims remaining in the application. In an entered amendment after final (Paper No. 21), claim 8 was amended.

Appellant's invention pertains to a dust bag and to a method for producing a dust bag. A basic understanding of the invention can be derived from a reading of exemplary claims 1,

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6, and 8, copies of which appear in the Appendix to the reply brief (Paper No. 23).

As evidence of obviousness, the examiner has applied the documents listed below:

Fesco	3,498,031	Mar. 3, 1970
Gin et al. 1986 (Gin)	4,589,894	May 20,
Bosses	5,080,702	Jan. 14, 1992

The following rejections are before us for review.¹

Claims 1, 2, 4 through 6, 8, and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gin in view of Fesco.

Claim 7 stands rejected under 35 U.S.C. § 103 as being unpatentable over Gin in view of Fesco, as applied above, further in view of Bosses.

¹ As indicated on page 2 of the answer (Paper No. 22), a final rejection of claim 8 under 35 U.S.C. § 112, second paragraph, was withdrawn by the examiner in view of the entry of an amendment (Paper No. 21) after final rejection.

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The full text of the examiner's rejections and response to the argument presented by appellant appears in the final rejection and answer (Paper Nos. 17 and 22), while the complete statement of appellant's argument can be found in the main and reply briefs (Paper Nos. 21 and 23).

OPINION

In reaching our conclusion on the obviousness issues raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,² and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determination which follows.

² In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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We reverse each of the examiner's rejections of
appellant's claims under 35 U.S.C. § 103.

Independent claim 1 is drawn to a dust bag comprising,
inter alia, a filter bag having two wall portions, and a
protective layer of an air permeable nonwoven web, the
protective layer being laid on the inner surface of a wall
portion without bonding, wherein the protective layer is in
the form of a protective strip being narrower than the wall
portions with longitudinal ends positioned and welded between
at least the longitudinally opposing interconnected edges of
the wall portions.

Independent claim 6 sets forth a method for producing a
dust bag comprising, inter alia, providing a first web of air-
permeable material and a second web of air-permeable material
narrower than the first web, and cutting off a portion of the
first web with the second web positioned therein, and sealing
the cut off portion at both ends, with the second web being
held at both sealed ends of the cut off portion.

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Independent claim 8 specifies a method for producing a dust bag comprising, inter alia, providing a first layer of air-permeable filter material and a second layer of air-permeable material resistant to mechanical stresses, the second layer being narrower than the first layer, placing a third layer of air-permeable filter material on the second layer, and welding the sequence of layers together along a continuous edge line.

We fully comprehend the examiner's assessment of the applied teachings and how the examiner perceives that the evidence of obviousness would have been suggestive of the claimed invention.

However, as more specifically explained below, we are of the view that, absent appellant's own teaching and reliance upon hindsight, the applied patents themselves simply would not have been suggestive of the claimed dust bag and method.

The Gin patent teaches a filter bag formed by seaming a suitable layered fabric 50 that includes an inner micro-fiber layer 51 and first and second outer support layers. The

patent indicates (column 5, line 47) that the outer layers may be made of "Cerex".³ As is quite clear from the Gin document, and recognized by the examiner (final rejection, page 3), this reference is silent on the provision of a narrow protective strip. On the other hand, the patent to Fesco teaches a narrow, reinforcing and auxiliary filtering insert 14 of felt-like material. As seen in Fig. 1, the insert is held in place with adhesive strips 16, and the patentee expressly points out (column 3, lines 16 through 20) that the insert does not extend to either end of the blank to avoid a bulky construction.

At best, it appears to us that one having ordinary skill in the art would have viewed the respective teachings of Gin and Fesco as alternative filter configurations. Thus, if a narrower insert were desired it would have clearly been applied by adhesive and spaced from ends of the filter to effect a less bulky construction, following the teaching of Fesco. Therefore, it is our opinion that a narrow protective

³ It is worthy of noting that appellant's protective layer 38 is indicated to be made of "CEREX" (specification, page 9).

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layer, as now particularly claimed, would not have been suggested by the Gin and Fesco teachings, collectively considered. As to the patent to Bosses, we conclude that it does not overcome the deficiency of the Gin and Fesco disclosures. More specifically, the Bosses document, which refers to each of the Gin and Fesco teachings (column 1, lines 18 through 37), simply reveals another alternative to the teachings of the Gin document (melt-blown filter layer sandwiched between inner and outer layers), i.e., a two-ply bag wherein a melt-blown filter ply is inside an outer ply (Fig. 5).

Since the evidence of obviousness would not have been suggestive of the claimed subject matter, each of the rejections on appeal under 35 U.S.C. § 103 must be reversed.

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The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JEFFREY V. NASE)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JENNIFER D. BAHR)	
Administrative Patent Judge)	

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COHEN

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APPLICATION NO. 08/318,645

APJ COHEN

APJ BAHR J.

APJ NASE

DECISION: **REVERSED**

Prepared By:

DRAFT TYPED: 20 Jul 01

FINAL TYPED: